

10/564,322

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kai Desinger et. al	Examiner:	John R. DiCicco
Serial No.:	10/564,322	Group Art Unit:	3739
Filing Date:	January 11, 2006	Docket No.:	3444
Title	Surgical Probe		

Date of Deposit: 10-20-08

I hereby certify that this paper is being facsimile transmitted to the USPTO or deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Signature: Mary S. Keller
 Printed Name: Mary S. Keller

**Petition to Accept Unintentionally Delayed Priority Claim
 Under 37 CFR §1.78 (e) and 35 USC §120**

Commissioner for Patents
 Alexandria, VA 22313

The Applicants hereby petition to claim priority under 35 U.S.C. §120 in the above-identified application for patent to prior-filed nonprovisional application USSN 10/806,867, filed March 23, 2004.

Petition is Proper

This petition is proper because USSN 10/806,867 was pending at the time of filing of the present application, and USSN 10/806,867 shares at least one inventor, Dr. Kai Desinger, with the present application. Further, this petition is accompanied by:

- (i) an amendment that adds the reference required by 35 U.S.C. §120 to the prior-filed application;
- (ii) the surcharge set forth in §1.17(t);
- (iii) a statement, below, that the delay in claiming priority was unintentional.

10/24/2008 GFREY1 00000055 500246 10564322

01 FC:1453

1620.00 OF

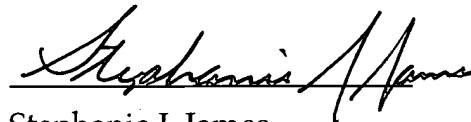
Statement That the Delay Was Unintentional

The Entire delay between the date the claim was due under 37 CFR §1.78 (d)(4) and today was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that all these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C. §1001, and that willful false statements may jeopardize the validity of any patent issuing from USSN 10/564,322.

Respectfully submitted,
Dr. Kai Desinger et al.
By their attorneys:

Date: 10/20/00



Stephanie J. James
Registration No. 34,437
Beck & Tysver, P.L.L.C.
2900 Thomas Ave., #100
Minneapolis, MN 55416
Telephone: (612) 915-9636
Fax: (612) 915-9637